



Trees and Law

Guide to Neighbor Law & Negligence

April 22, 2022

CEUs: ISA, Landscape
Architect & CFE

Birmingham, AL

LOCATION:

Bessemer Civic Center
1130 9th Ave SW, Bessemer, AL
35022

TIME:

8:00 AM – 4:15 PM

QUESTIONS:

Jefferson County Extension
Office
205.325.5342

Registration: (lunch provided)

Early Registration: \$60

Late Registration: \$75 – April 8

Scholarships available by request

<https://www.aces.edu/go/Treesandlaw>



Alabama Urban
Forestry Association



Program Agenda:

8:00 – 8:15 AM	Registration	
8:15 – 8:20 AM	Welcome	Dr. Beau Brodbeck – Auburn University Extension
8:20 – 9:00 AM	Key legal Concepts of Negligence & Duty	Scott Rouse, Alabama Forestry Commission
9:00 – 10:15 AM	Neighbor Law	Joe Samnik – Expert Tree Consultant, LLC
10:15 – 10:30 AM	Break	
10:30 – 11:30 AM	Concepts of Risk & Liability	Skip Kincaid – ISA Southern Chapter
11:30 – 12:15PM	Lunch (provided)	
12:15 – 1:15 PM	Good Steps – Bad Steps	Skip Kincaid – ISA Southern Chapter
1:15 – 1:30 PM	Break	
1:30 – 2:45 PM	Case Studies in Municipal Tree Law	Joe Samnik – Expert Tree Consultant, LLC
2:45 – 3:15 PM	How are Alabama Communities Addressing Tree Risk and Liability	Dr. Beau Brodbeck – Auburn University Extension
3:15 – 3:30 PM	Break	
3:30 – 4:00 PM	Panel Discussion & Questions	Joe Samnik, Skip Kincaid, Scott Rouse and Beau Brodbeck
4:00 – 4:15 PM	Evaluation & Conclusion	

Presentation Descriptions:

Key Legal Concepts – Scott Rouse

This presentation will provide an attorney's perspective on the legal concepts of negligence, liability and duty.

Neighbor Law – Joe Samnik

If you work in the urban forest, you have neighbors; residential or commercial, we all have neighbors. And neighbor Law is the most target- rich environment for attorneys and litigation. Nowhere in our industry exist more case laws than with our neighbors. With so much required knowledge, case law regarding neighbors is an absolute necessity regardless of which practice area in arboriculture you work and apply your skills and expertise. This presentation will cover the most applied case law when working with neighbors in the urban forest. The nuances and actual case law behind the verdicts will demonstrate the conduct of plaintiffs and defendants at trial which shall be presented and discussed in this riveting presentation that will help you prevent litigation or successfully present your position during litigation.



Concepts of Risk & Liability - Skip Kincaid

Covers basic concepts of "Duty of Care" and "Standard of Care" as they relate to arborists and others that work around trees. These basic concepts create a foundation for further discussion of the risk associated with trees. The presentation will include a primer on the tree risk assessment process as found in ANSI A300 and how a tree risk assessment impacts the inspector's exposure to liability.

Good Steps - Bad Steps - Skip Kincaid

Municipalities, commercial arborists, tree consultants, and anyone that works near trees must take steps to protect the public, clients, and themselves by reducing risk (or not!) Presentation will discuss the importance of these steps and will end with case studies that will promote discussion and motivate actions that will reduce risk.

Case Studies in Municipal Tree Law – Joe Samnik

A presentation and discussion of actual case laws from lawsuits regarding trees and negligence will be presented. This case law defines that conduct you should be conducting yourself under when consulting or otherwise working with trees. A good consultant knows tree biology; a great consultant knows case law. The mistakes have already been made. This presentation will teach you not to repeat them.

How are Alabama Communities Addressing Tree Risk and Liability – Dr. Beau Brodbeck

Urban trees provide a countless ecological, economic and social values; however, they can also pose risks and liability concerns when they fail. This presentation will review results for a 2021 study describing how Alabama communities mitigate risks associated with increasing storm frequency and address liability concerns related to trees.

Speaker Bio:

Joe Samnik: – Expert Tree Consultant, LLC

Joe is entering his 53rd year of practice limited to tree and landscape consulting and the dispute resolution process. He received the Edward W. Bok award for recognition of lifetime achievement in the excellence of arboriculture. Joe was the founding president of the International Society of Arboriculture (ISA), Florida Chapter and sat on the Board of Directors for six years as the Consultant's Representative and Education Chair. He has served as chair of the Nominations Committee for the past three years. He is also a past president of the Association of Eminent Domain Professionals (AEDP), and their current president. Joe is licensed through the Department of Agriculture and Consumer Services, State of Florida, to prescribe and treat pests on trees and landscapes. He has been issued a provider number by the Department of Business and Professional Regulation, State of Florida for the continuing education of landscape architects, and the International Society of Arboriculture for arborist's continuing education. He has presented at over 100 International, and state conferences. His abstracts on tree assessments were selected for presentation at six (6) International Society of Arboriculture (ISA) conferences. His formula for appraising the value of roadside vegetation was included in Rule Chapter 14-40 of the Florida Statutes, and copyrighted as intellectual property. His formula for calculating the value of a forest tree providing ecological benefits was intellectually copyrighted in 2016. Joe is a recognized expert witness in small claims, civil, criminal, eminent domain and federal courts of law. He has been named as an expert in over 1,000 litigation assignments. Joe has appraised over 200 million dollars of value in litigation assignments.

Skip Kincaid – ISA Southern Chapter

Skip Kincaid is an ISA Board Certified Master Arborist (MW-0155BM) with over 30 years of urban forestry, arboriculture, and forestry experience. He provides governments, businesses, utilities, attorneys, architects, and



engineers with the performance of tree risk assessments; tree appraisals/forensics; storm damage assessment projects; tree preservation plans on construction sites; urban forestry master plans; ordinance writing; and expert witness testimony. Skip currently holds positions as the Executive Director of the ISA Southern Chapter and the Director of Urban Forestry for Hansen's Tree Service & Environmental Wood Resources in O'Fallon, Missouri and provides a wide range of consulting services. Skip served for four years on the International Society of Arboriculture's (ISA) panel of experts that developed the Tree Risk Assessment Qualification (TRAQ) and has taught the 2½ day course over 60 times. His expertise is utilized by attorneys as an expert witness and he has testified at depositions and trials in many states.

Scott Rouse, General Council – Alabama Forestry Commission

Scott Rouse is General Counsel for the Alabama Forestry Commission and has represented the State of Alabama as an assistant and deputy attorney general for over 23 years. He spent over six years in the Alabama Office of Attorney General, working mostly under Bill Pryor, currently Chief Judge of the 11th Circuit. Scott served as the State's first Deputy Solicitor General for civil litigation, and in that role he worked extensively with state and federal appellate courts, dealing with issues such as prison crowding, governmental immunities, and constitutional rights. Scott went on to serve as Governor Bob Riley's deputy legal advisor, and then served as counsel for the Alabama Department of Human Resources and later the Alabama Department of Corrections. Scott became General Counsel of the Alabama Forestry Commission in 2013. He has since focused on real estate, government contracts, employment law, and legislative relations. With offices and property in most of Alabama's 67 counties, Scott's real estate experience has included such things as conveyances, boundary disputes, hazard mitigation, trespass, environmental compliance, and tree risk issues.

Beau Brodbeck, PhD – Auburn University

Beau Brodbeck is an Extension Specialist in Community Forestry & Arboriculture and an Affiliate Faculty in the School of Forestry and Wildlife Sciences at Auburn University. Over the past 20 years he has worked in various facets of forest and urban forest management. He began his career as a forestry consultant before working for Auburn University to manage Alabama's urban forest hurricane recovery program in the aftermath of Hurricanes Ivan and Katrina. In the past few years Beau's focus is on educational outreach developing programs and publications to serve the forestry and urban forestry communities in Alabama. His research has addressed human dimensions of urban forest management as well as migrant labor within the forest industry. He holds a Ph.D. in forestry from Auburn University and is an Alabama Registered Forester and ISA Certified Arborist. Brodbeck has served in various leadership positions, including chair of TREE Fund, president of the ISA Southern Chapter, treasurer of the Alabama Urban Forestry Association, and councilman of the Alabama Forestry Council.

